

HAWAII ADMINISTRATIVE RULES

TITLE 13

DEPARTMENT OF LAND AND NATURAL RESOURCES

SUBTITLE 4 FISHERIES

PART V PROTECTED MARINE FISHERIES RESOURCES

CHAPTER 94

BOTTOMFISH MANAGEMENT

- §13-94-1 Purpose
- §13-94-2 Definitions
- §13-94-3 Penalty
- §13-94-4 Severability
- §13-94-5 Bottomfish species
- §13-94-6 Restricted bottomfish fishing gears
- §13-94-7 Recreational bag limits
- §13-94-8 Bottomfish restricted fishing areas
- §13-94-9 Bottomfish fishing vessel identification
number
- §13-94-10 Control date

§13-94-1 Purpose. It is the intention of the department to establish these rules for the conservation and management of bottomfish resources in the main Hawaiian Islands. Scientific studies indicate that certain bottomfish species should be managed and certain areas strictly regulated to conserve existing stocks.

§13-94-2 Definitions. As used only in this chapter:

"Board" means the board of the department of land and natural resources.

"Bottomfish" means those fish species listed in section 13-94-5 of this chapter.

"Bottomfish limited entry program" means a method of fishery management that limits or controls participation in a fishery, access to a fishery, or generally fishing, for a bottomfish species or a number of bottomfish species. Measures to limit or control participation, access, or fishing could include, but are not limited to, reducing or setting a maximum number of

fishers, reducing or setting a maximum number of fishing vessels, restricting fishing gear types, restricting fishing areas, or restricting maximum amount of catch.

"Bottomfish longline" means a type of fishing gear or fishing method used to take bottomfish consisting of a weighted mainline, with attached shorter branchlines with fishing hook or hooks, that is either laid on the ocean bottom or suspended horizontally near the ocean bottom with floats.

"Clearly visible" means to be able to be seen in its entirety from a distance at least 100 feet away, free of any obstacle that may block the field of view from at least 45 degrees above, fore, and aft of the vessel.

"Commercial purposes" means the taking of marine life for profit or gain or as a means of livelihood where the marine life is taken in or outside of the State, or where the marine life is sold, offered for sale, bartered, landed, or transported for sale anywhere in the State.

"Main Hawaiian islands commercial bottomfish fishery" means the fishing of bottomfish for commercial purpose in the waters of the main Hawaiian islands surrounding, between, and including the islands of Niihau and Kaula to the northwest and the island of Hawaii to the southeast.

"Net" means any of various fishing devices of mesh material made into various shapes, such as but not limited to, a bag, sack, pouch, or curtain, used to entangle, surround, or concentrate aquatic life.

"Non-commercial purposes" means any purpose other than commercial purposes.

"Scoop net" means a type of fishing net consisting of a bag of mesh material kept open with a rigid frame and manipulated by a rigid handle that is designed to be used by a single person unaided by any mechanical device.

"Take" means to fish for, catch, or harvest, or to attempt to fish for, catch, or harvest, aquatic life. The use of any gear, equipment, tool, or any means to fish for, catch, capture, or harvest, or to attempt to fish for, catch, capture, or harvest, aquatic life by any person who is in the water, or in a vessel on the water, or on or about the shore where aquatic life can be fished for, caught, or harvested, shall be construed as fishing.

"Trap" means any of various fishing devices of mesh, perforated, or solid material made into the shape

of a box, container, or enclosure, with one or more openings that allow aquatic life to enter into the interior of the box, container, or enclosure, but restrict exit out, thereby capturing the aquatic life within.

"Trawl" means a type of fishing net, usually in the form of an elongated bag, with the mouth kept open by various means that captures aquatic life while being towed or dragged through the water by a vessel. [Eff: JUN 01 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-94-3 Penalty. A person violating this chapter, or the terms and conditions of any license or permit issued as provided by this chapter, shall be punished as provided by law. [Eff: JUN 01 1998] (Auth: HRS §§187A-5, 187A-13, 188-53, 188-70, 189-4) (Imp: HRS §§187A-5, 187A-13, 188-53, 188-70, 189-4)

§13-94-4 Severability. If any provision of this chapter, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. [Eff: JUN 01 1998] (Auth: HRS §§187A-5, 1-23) (Imp: HRS §§187A-5, 1-23)

§13-94-5 Bottomfish species. For the purposes of this chapter, the following species are bottomfish:

- (1) Ula'ula koa'e or onaga (*Etelis coruscans*);
- (2) Ula'ula or ehu (*Etelis carbunculus*);
- (3) Kalekale (*Pristipomoides sieboldii*);
- (4) Opakapaka (*Pristipomoides filamentosus*);
- (5) Ukikiki or gindai (*Pristipomoides zonatus*);
- (6) Hapu'u (*Epinephelus quernus*); and
- (7) Lehi (*Aphareus rutilans*). [Eff: JUN 01 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-94-6 Restricted bottomfish fishing gears. (a) Certain fishing gears shall be prohibited to restrict their use in the taking of bottomfish. Except as may be otherwise authorized by law, it is unlawful for any person to take bottomfish with any trap, trawl, bottomfish longline or net; provided that scoop nets

may be used to bring on board a vessel any bottomfish that has already been caught by authorized fishing gear.

(b) Except as may be otherwise authorized by law, it is unlawful for any person, while on board a vessel, to possess both bottomfish and any trap, trawl, bottomfish longline, or net other than scoop net. [Eff: JUN 01 1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

§13-94-7 Non-commercial bag limits. (a) A limit on the number of bottomfish that may be taken for non-commercial purposes shall be established to conserve bottomfish resources.

(b) Unless otherwise authorized by law, it is unlawful for any person, without a current commercial marine license issued pursuant to section 13-74-20, to take or possess more than five onaga, five ehu, or a combined total of five of both. [Eff: JUN 01 1998] (Auth: HRS §§187A-5, 189-2) (Imp: HRS §§187A-5, 189-2)

§13-94-8 Bottomfish restricted fishing areas. (a) The department will restrict fishing in certain areas to conserve the spawning populations of bottomfish.

(b) To aid enforcement of this section, the department intends to restrict all fishing for and possession of bottomfish within the restricted fishing areas. It is unlawful for any person to take or possess bottomfish while in a vessel that is drifting or anchoring within any bottomfish restricted fishing area, except in times of emergencies or as may be otherwise authorized by law.

(c) The department will gather and consider the following information when selecting the bottomfish restricted fishing areas:

- (1) Identify the fishing areas where spawning onaga and ehu are caught;
- (2) Restrict fishing in about twenty percent of the known fishing areas where spawning onaga and ehu are caught;
- (3) Distribute the bottomfish restricted fishing areas in the most effective manner to consider the potential benefits and limit negative impacts on bottomfish fishing opportunities;
- (4) Suggestions from bottomfish fishers statewide; and
- (5) Any other relevant information.

(d) Due to the critical need of some bottomfish species for conservation measures, the department may need to respond quickly to establish or modify bottomfish restricted fishing areas. The bottomfish restricted fishing areas shall be established or amended by formal board action at a publicly noticed meeting. The bottomfish restricted fishing areas are attached at the end of this chapter as Exhibit A, entitled the "Bottomfish Restricted Fishing Areas" 4/24/98, or as may be amended by subsequent board action and a copy of the amended Exhibit A shall be filed with the Office of the Lieutenant Governor.

(e) The department will, in consultation with fishermen and other relevant persons, evaluate the bottomfish restricted fishing areas no later than July 1, 2003 to monitor their effectiveness and proceed to establish or amend the onaga and ehu restricted areas, as necessary. [Eff: JUN 01 1998] (Auth: HRS §§187A-5, 188-53) (Imp: HRS §§187A-5, 188-53)

§13-94-9 Bottomfish fishing vessel identification number. (a) The department may register, and assign a bottomfish fishing vessel identification number to, any vessel used to fish for bottomfish. The purpose of the number is to enable identification of vessels used to fish for bottomfish from a distance while on the open ocean.

(b) It is unlawful for any person to take or possess bottomfish while on a vessel on the water without a bottomfish fishing vessel identification number assigned or approved by the department.

(c) The bottomfish fishing vessel identification number shall consist of the following vessel identification, in front of the letters "BF" added as a suffix:

- (1) A valid Division of Boating and Ocean Recreation vessel registration number issued and displayed pursuant to chapter 13-241;
- (2) A valid National Marine Fisheries Service permit number issued and displayed under the provisions set forth in Fishery Management Plans of the Western Pacific Regional Fishery Management Council pursuant to CFR Part 660 Subparts B through E;
- (3) A valid United States Coast Guard vessel

documentation number issued pursuant to
46 CFR 67; or

- (4) Any other such identification approved by
the department.

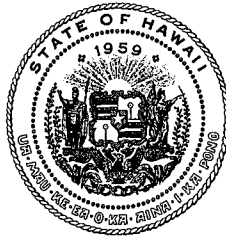
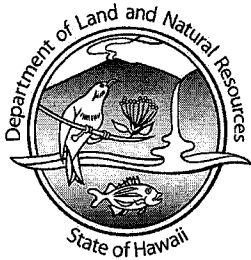
(d) If the vessel identification, listed in
subsection (c) above is not required to be displayed,
then the vessel identification and the capital letters
"BF", shall be displayed and clearly visible on both
sides of the vessel, either near the top of the gunwales
or on the superstructure. Unless otherwise specified,
all characters in the bottomfish vessel identification
number shall be no less than six (6) inches high and
three (3) inches wide in black or a contrasting solid
color to the background. [Eff: JUN 01 1998] (Auth:
§187A-5) (Imp: §187A-5)

§13-94-10 Control date. (a) There is established
a control date to give prior notice of intent to
possibly limit participation in the Main Hawaiian
Islands commercial bottomfish fishery. Persons who
begin fishing in the Main Hawaiian Islands commercial
bottomfish fishery on or after the control date will not
be assured continued participation if the department
establishes a bottomfish limited entry program in the
future. The control date will be the original effective
date of this chapter.

(b) Nothing in this chapter shall commit the
department to establish a bottomfish limited entry
program in the future nor does it prevent the department
from establishing another control date. [Eff: JUN 01
1998] (Auth: HRS §187A-5) (Imp: HRS §187A-5)

Exhibit A					
Bottomfish Restricted Fishing Areas (BRFA) 12/8/06					
Coordinates (endpoints)					
BRFA	Northwest (1)		Northeast (2)		
A	21° 44'	N Lat, 160° 39' W Long	21° 44'	N Lat, 160° 30'	W Long
B	21° 50' 25"	N Lat, 160° 07' 30" W Long	21° 51' 22"	N Lat, 160° 04' 30"	W Long
C	21° 52' 30"	N Lat, 159° 32' W Long	21° 52' 30"	N Lat, 159° 23'	W Long
D	21° 39'	N Lat, 158° 24' W Long	21° 39'	N Lat, 158° 15'	W Long
E	21° 25'	N Lat, 157° 41' W Long	21° 25'	N Lat, 157° 32'	W Long
F	21° 02'	N Lat, 157° 34' W Long	21° 02'	N Lat, 157° 22'	W Long
G	21° 14'	N Lat, 156° 58' W Long	21° 14'	N Lat, 156° 52'	W Long
H	21° 07'	N Lat, 156° 42' W Long	21° 07'	N Lat, 156° 38'	W Long
J	20° 55'	N Lat, 156° 08' W Long	20° 55'	N Lat, 155° 59'	W Long
K	20° 21'	N Lat, 155° 53' W Long	20° 21'	N Lat, 155° 25'	W Long
L	19° 44'	N Lat, 154° 59' 50" W Long	19° 44'	N Lat, 154° 54'	W Long
M	18° 54' 13"	N Lat, 155° 41' W Long	18° 57'	N Lat, 155° 37'	W Long
BRFA	Southeast (3)		Southwest (4)		
A	21° 41'	N Lat, 160° 30' W Long	21° 41'	N Lat, 160° 39'	W Long
B	21° 46' 30"	N Lat, 160° 04' 30" W Long	21° 46' 30"	N Lat, 160° 07' 30"	W Long
C	21° 50' 30"	N Lat, 159° 23' W Long	21° 50' 30"	N Lat, 159° 32'	W Long
D	21° 36' 18"	N Lat, 158° 15' W Long	21° 36'	N Lat, 158° 17' 10"	W Long
E	21° 17'	N Lat, 157° 32' W Long	21° 17'	N Lat, 157° 37' 47"	W Long
F	20° 55'	N Lat, 157° 22' W Long	20° 55'	N Lat, 157° 34'	W Long
G	21° 10'	N Lat, 156° 52' W Long	21° 13' 08"	N Lat, 156° 58'	W Long
H	21° 03'	N Lat, 156° 38' W Long	21° 03'	N Lat, 156° 42'	W Long
J	20° 47'	N Lat, 155° 59' W Long	20° 52' 03"	N Lat, 156° 08'	W Long
K	20° 05' 30"	N Lat, 155° 25' W Long	20° 16' 03"	N Lat, 155° 53'	W Long
L	19° 35'	N Lat, 154° 54' W Long	19° 35'	N Lat, 154° 55' 02"	W Long
M	18° 51'	N Lat, 155° 37' W Long	18° 51'	N Lat, 155° 41'	W Long
Additional (5)					
D	21° 36'	N Lat, 158° 24' W Long			
E	21° 23' 38"	N Lat, 157° 41' W Long			

LINDA LINGLE



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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

April 8, 2010

TO: Honorable Duke Aiona, Lt. Governor
State of Hawaii

FROM: Laura H. Thielen, Chairperson
Board of Land and Natural Resources 

SUBJECT: Filing of revised maps, Exhibit A, Hawaii Administrative Rules
Chapter 13-94, Bottomfish Management

Enclosed please find marine maps of the bottomfish restricted fishing areas that were revised and approved by Board of Land and Natural Resources at its meeting of April 8, 2010. As provided in section 13-94-8(d), upon approval by the Board, revised closed area (maps) shall be filed with the office of the Lt. Governor. (Eff **APR 19 2010**).

I have enclosed three sets to comply with the requirements for filing rule changes. Please provide us with one of the originals once filed so that we may update our administrative rules. If you have any questions, please contact the Administrator, Division of Aquatic Resources at 587-0100.

Enclosures (3)

29 18

Exhibit A: Bottomfish Restricted Fishing Areas (BRFAs) 4-8-2010

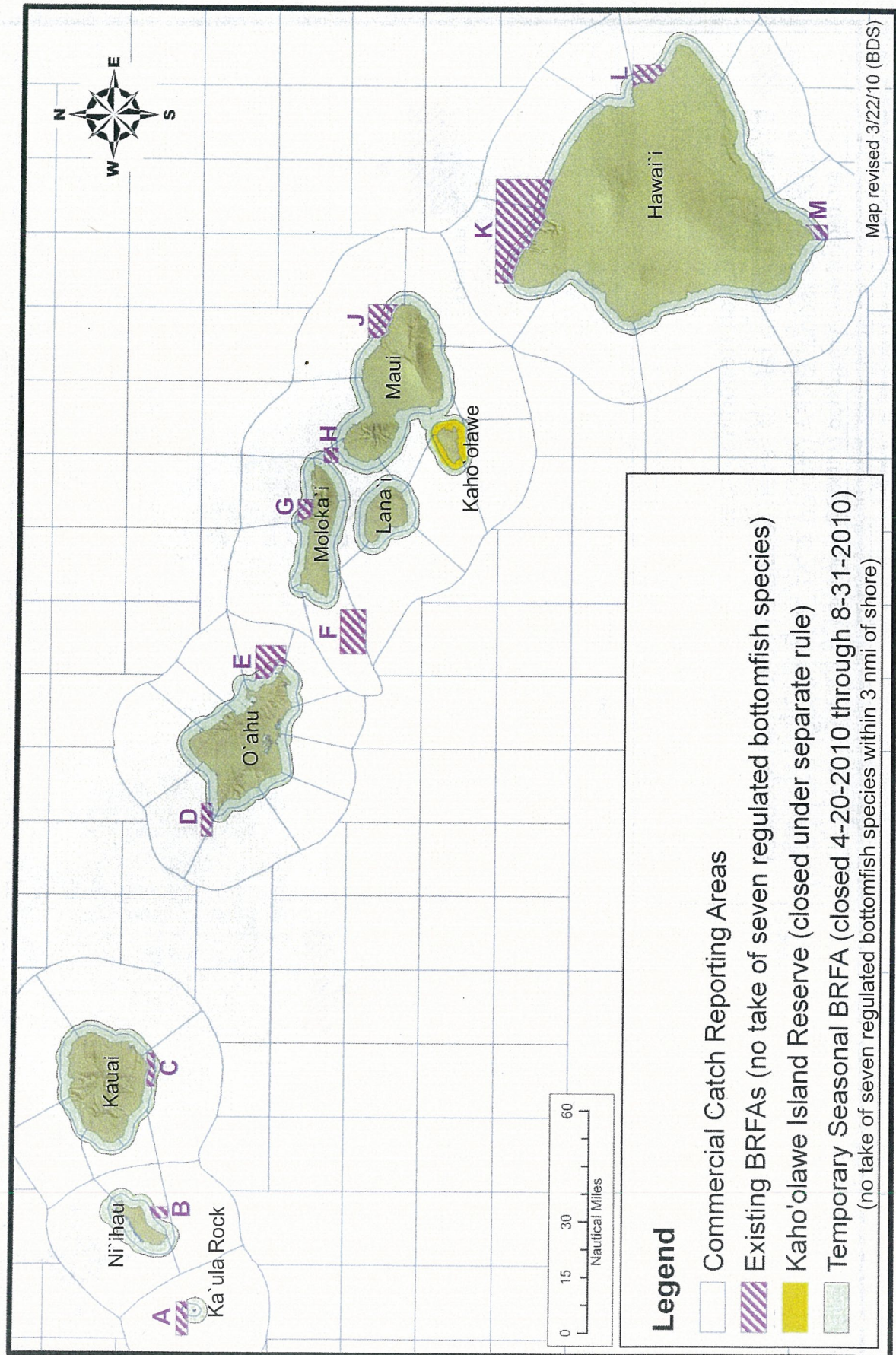


Exhibit A2: Kauai County BRFAs 4-8-2010

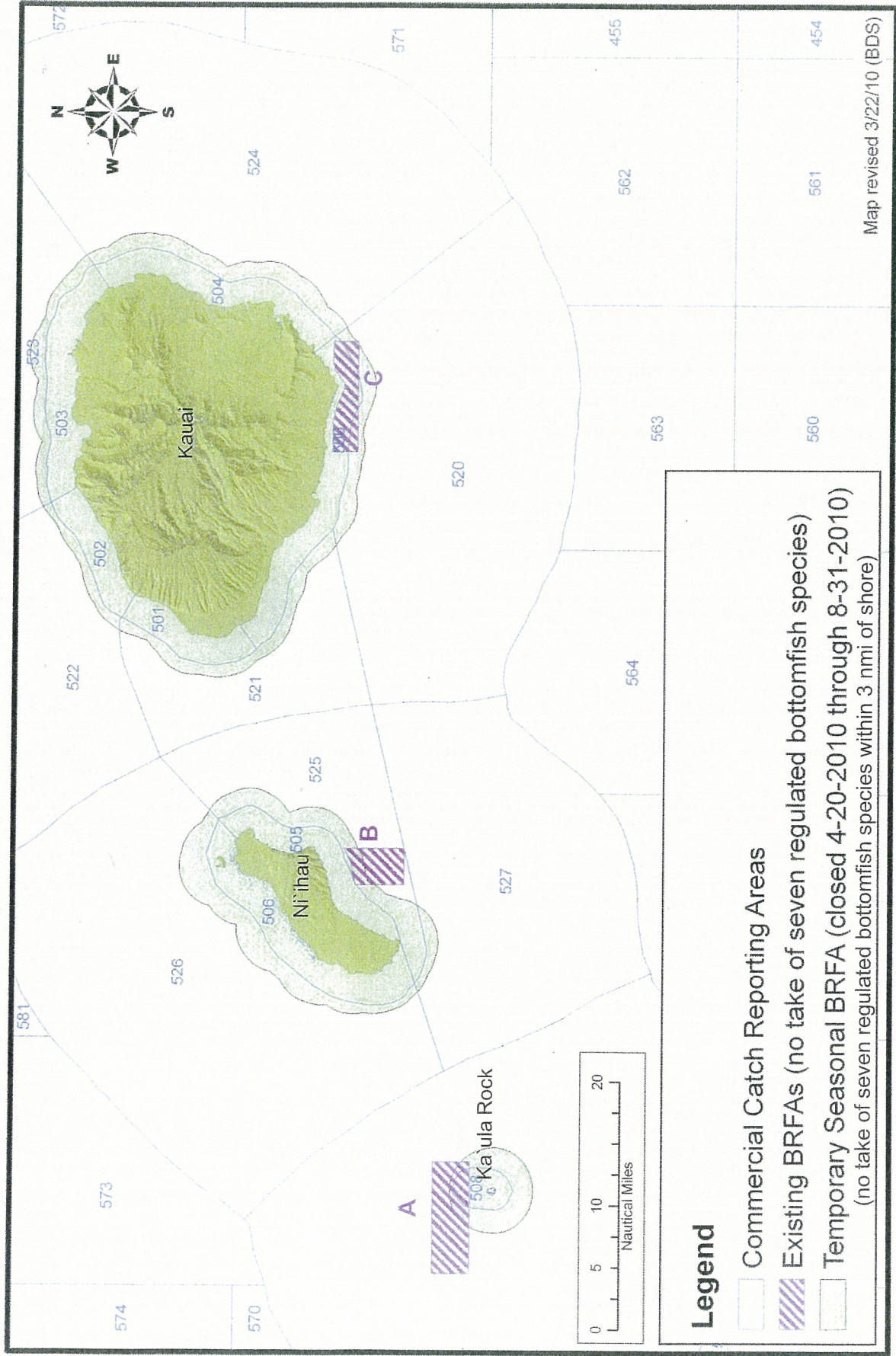


Exhibit A3: Honolulu City & County BRFA's 4-8-2010

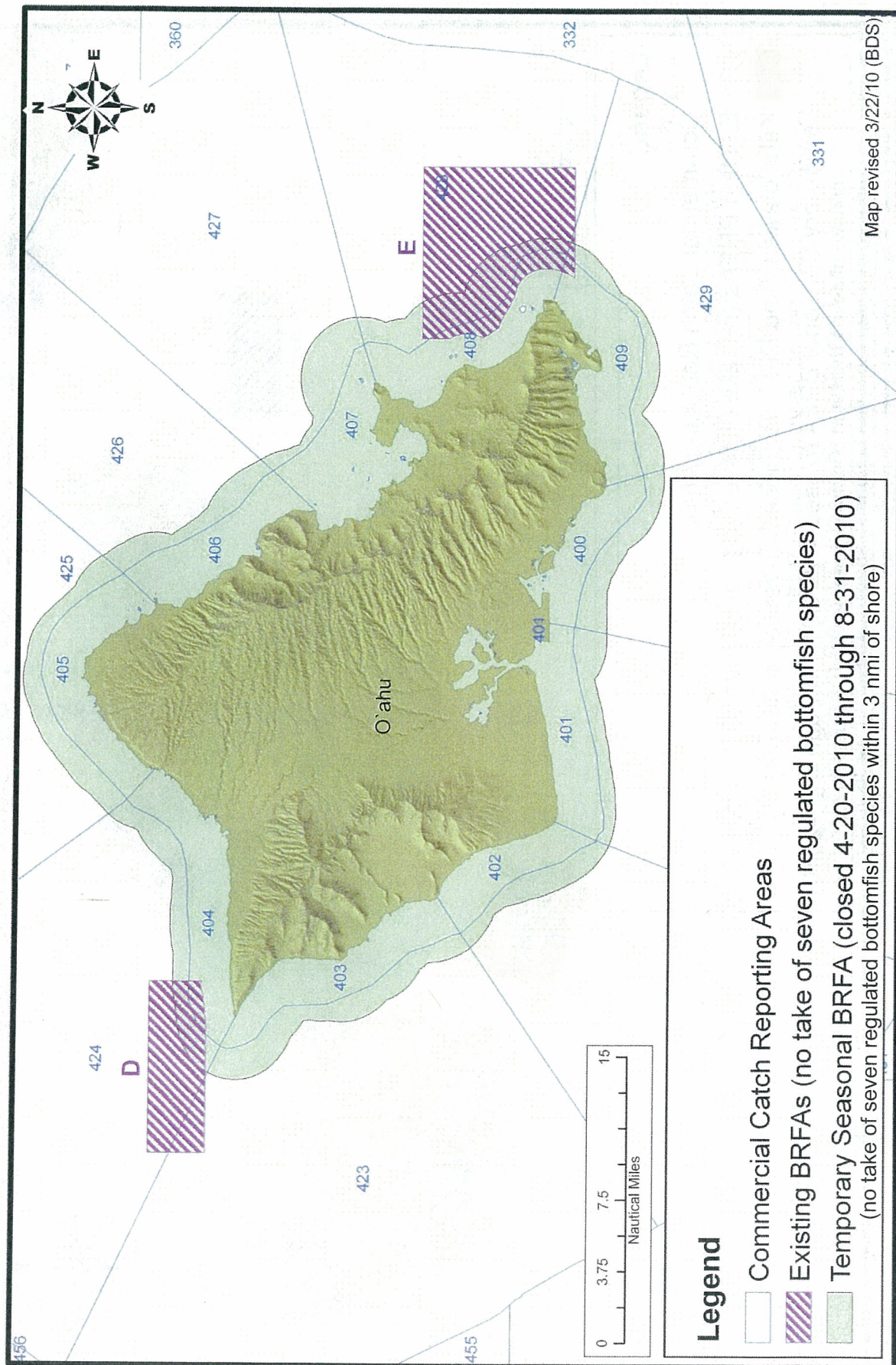


Exhibit A4: Maui County BRFAs 4-8-2010

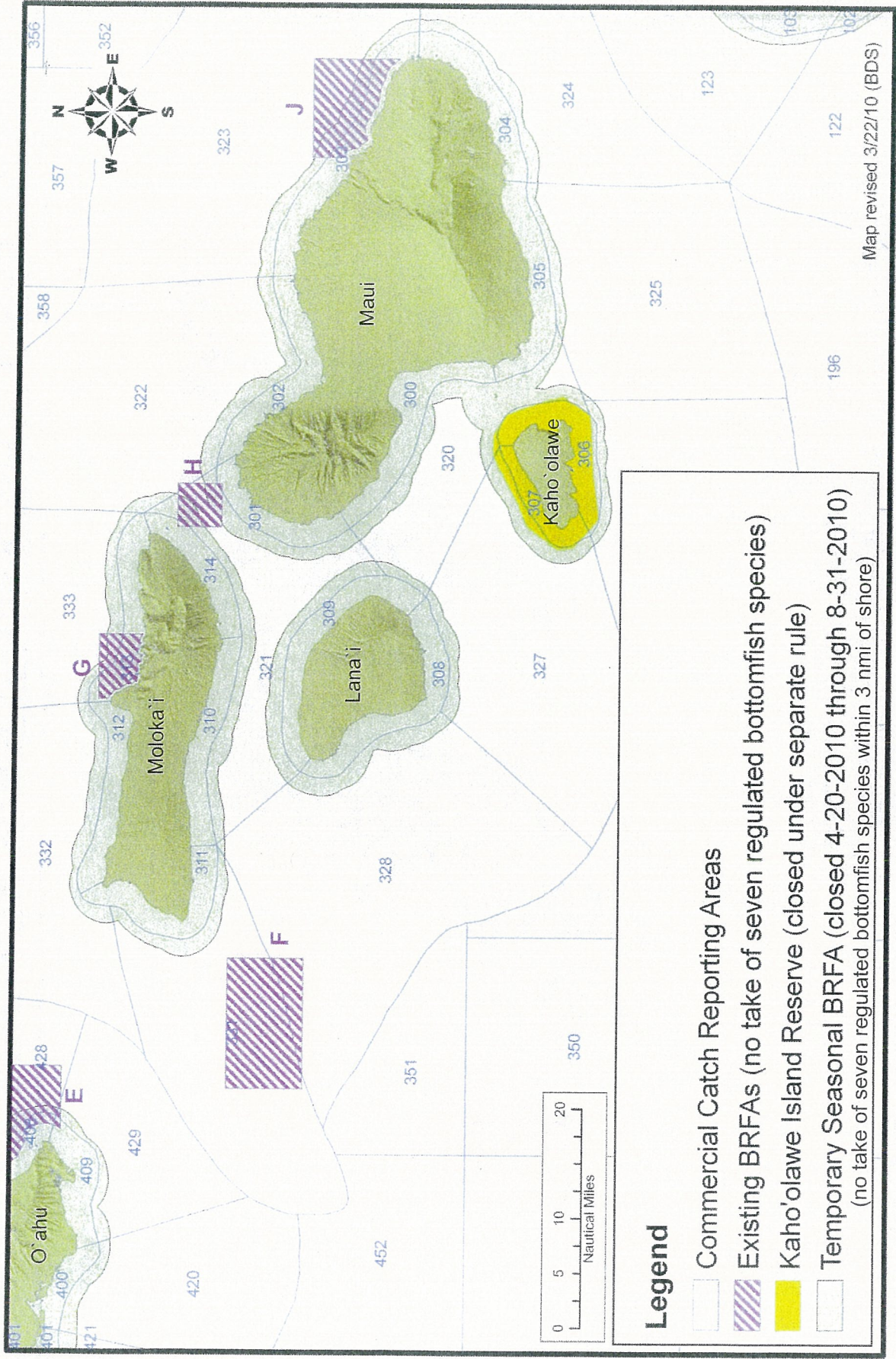


Exhibit A5: Hawai'i County BRFAs 4-8-2010

